

DGO 5.15 – ENFORCEMENT OF IMMIGRATION LAWS

MINUTES – AUGUST 15, 2017

Attendees:

Bill Ong-Hing – Police Commission (BH)
Petra DeJesus – Police Commission (PD)
Hector Sainez – SFPD (HS)
Michael Redmond – SFPD (MR)
Greg Yee – SFPD (GY)
Teresa Ewins – Pride Alliance (TE)
Saira Hussain – Asian Law Caucus (SH)
Marisela Esparza – Dolores Street (ME)
Avantika Shastri – SFBar (AS)
Richard Smith – St. John’s Episcopal (RS)
John Alden – DPA (JA)
Tylor Dominguez – SFPOA (TD)
Alicia Cabrera – DCA (AC)

Introductions of working group participants and various organizations represented

(PD) Hand out received from Asian Law Caucus which was a memo discussing the recommended revisions for DGO 5.15, and the redlined version of DGO 5.15 with comments.

(HS) Went over the red-lined draft provided by Free SF from previous working group meeting.

Addressed the following:

Truth Act – All of the conditions in the Truth Act relate to the Sheriff’s Department. We do not engage in any of the activities that relates to the Truth Act. We do not detain anyone in our holding cells. We detain for investigative purposes, however, they are booked at county jail.

(BH) Does SFPD ever get any notification in regards to detainees?

(HS) I have never heard of that in my 28 years, but in the language of the general order, this is represented on the last page of the general order to address this matter.

(SH) – Part of the concern is the Truth Act states there is a requirement in a department’s policy that a notification form be given to the detainee or their designee/attorney.

(BH) Is there any problem with this being put into the DGO or a Bulletin?

(HS) If we get a notification from ICE, we have to provide the form that is in the Truth Act?

(MR) It is in the act.

(BH) So you are ok with giving that form?

(MR) It’s just a notification to the person.

(HS) Second question, does SFPD receive ICE hold notifications, and the answer is no.

Going through the draft GO, Section 2A, whatever language is being used in 5.20 should be uniform.

City ID cards, 5.06 speaks to that issue.

(BH) Chief Fong had a bulletin. We will see who is working on it in the working group and make the recommendation to the working group. It will be in a DGO

(SH) Would it be possible to erase the identification piece if we refer to 5.06 to determine forms of identification for cross reference purposes?

(HS) This might confuse the officers. I see your point, however, we have separate DGO's to address the different items.

(PD) DOJ says our DGO's are confusing because they reference other DGOs. They said we should plainly state what we need to state in each DGO

(HS) We can reference at the end of the DGO in regards to 5.06

(SH) Is Consular ID acceptable?

(HS) I am not sure.

(BH) We can look into that, and add that to 5.06

(MR) In most cases an officer who was presented with a consular id would accept it as a valid ID

(HS) 2C, we already speak to what our role is on page 4. We will only collaborate to the extent of a criminal investigation. We cannot direct Federal agencies. We make it very clear that our mission is to investigate criminal investigations only.

(BH) If they tell us that they are doing immigration enforcement, we stay away from it. How about saying, a "stated purpose" for section C?

(HS) I don't have an issue with that.

(MR) I am briefed regarding all inter agency operations, the investigator briefs me regarding a statement of purpose that is discussed, and ensures there are no secondary immigration activities that we would be involved in.

(BH) If ICE or HSI keeps it a secret, we can't blame the department. We can't protect against that.

(MR) We don't want any surprises. They have to respect what San Francisco stands for and our values. We really push before any enforcement happens, that this is clearly understood.

(TD) Can the DGO state, In an instance where PD personnel show up and and it turns into immigration enforcement, the officers won't be subject to discipline.

(MR) It's already in the GO

(HS) I am concerned about some of the language in the DGO which could fall back on the officers.

(BH) Let's make sure it is clearly stated that the officers would not be disciplined if the immigration enforcement is a surprise. They can't be faulted.

(SH) Does SFPD ask if immigration arrests are being planned during inter-agency agreements?

(MR) SFPD does not work with ICE. It would be with HSI on the criminal side. Before anything happens, the approval goes through me and Assistant Chief Chaplin. We always make sure if the investigation touches any part of immigration that we are notified immediately and we aren't involved in that. We don't want to put our officers in a bad situation or the city.

(SH) If you were vetting and they said, we can't promise we won't carry out immigration arrests, what would your response be?

(MR) We wouldn't approve it.

(JA) Just want to confirm that our personnel and the federal personnel are reminded of dgo 5.15 at the onset of the operation

(MR) At the beginning of the new year we brought in all of our task force officers and went over the policies and procedures, refreshed them. We are in the process of writing a field operations bureau order to re-inforce this.

(HS) Page 2, section B, I don't have a problem with your recommendation. The second part regarding threatening , add " or threaten with deportation".

(SH) I like the addition, or threaten with deportation. More specific.

(HS) Clear language for our officers is important

(HS) Page 2E, adding forms, I don't see a problem.

(BH) Instead of referencing exact forms, maybe state "or any other versions of this form"

(SH) Helpful to have all of the forms, but add your language to it

(BH) 3A, emergency assistance means what?

(HS) Potential threat of violence towards individual, or any law enforcement state, federal, local, crowd control situation. We wouldn't assist with operations, but assist with safety

(SH) Is this in any other DGO? This language of "emergency assistance"?

(HS) We need to give officers clear direction to what that means

(BH) Put this in a bulletin or DGO?

(JA) I suggest a DGO because bulletins expire every two years.

(TD) To what extent does an officer assist with the emergency assistance?

(PD) It's covered in the last sentence.

(TD) Officer can respond , however, if there is an arrest, the officer won't be in violation because they were responding to an emergency situation.

(BH) Can you propose some language you would like to see in this portion.

(HS) Page 4, depends on the agreement we enter into. Posting some of the information asked, we may have some issues, ie, the MOU, we would have to get consent from the other organizations involved in the operation

(BH) What is the goal behind this addition? (Page 4, section B)

(SH) We have seen in other counties, first criminal investigation, but turns into immigration enforcement. We feel it is the right of public to know if this happens. The police department needs to think through how they work with these various agencies. This is a transparency clause to allow the public the information.

(HS) We address this in the DGO inter-agency portion. We won't participate in immigration issues

(SH) We just want reporting on it if it does take place.

(AS) ICE has come out and said that they are giving their officers the license to make more collateral arrests.

(SH) We need to get the information because ICE stone walls us.

(TD) From my perspective, there is a risk to operational and officer safety with a higher level of specificity

(BH) I read this as wanting transparency. After the fact, the public may want to see the MOU's between the PD and the other agencies.

(SH)